



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-1166]

RIN 1625-AA00

Safety Zone; Atlantic Intracoastal Waterway, Vicinity of
Marine Corps Base, Camp Lejeune, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Atlantic Intracoastal Waterway (AICW) adjacent to Marine Corps Base (MCB) Camp Lejeune, North Carolina, which encompasses the navigable waters of the AICW between Mile Hammock Bay and the Onslow Swing Bridge in support of military training operations. This action is necessary to provide for safety of life on navigable waters during the military training operation. This action is intended to restrict vessel traffic on the Atlantic Intracoastal Waterway to protect mariners from the hazards associated with military training operations.

DATES: This rule is effective from 7 a.m. on February 6, 2012 through 4 p.m. on February 7, 2012.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-1166 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-1166 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Chief Warrant Officer Joseph Edge, Waterways Management Division Chief, Sector North Carolina, Coast Guard; telephone 252-247-4525, e-mail Joseph.M.Edge@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On January 10, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Atlantic Intracoastal Waterway, Vicinity of Marine Corps Base, Camp Lejeune, NC in the Federal Register (77 FR 1431). We

received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the participants, patrol vessels, and other vessels transiting the event area. However, the Coast Guard will provide advance notifications to users of the effected waterways via marine information broadcasts, local notice to mariners, commercial radio stations and area newspapers.

Background and Purpose

On February 6 and 7, 2012 the Marine Corps Base, Camp Lejeune, North Carolina will be conducting military training operations on the navigable waters of the Atlantic Intracoastal Waterway between position 34°32'51"N, 077°19'36"W and 34°34'15"N, 077°16'16"W (NAD 1983). Due to the need to protect mariners from the hazards associated with the military training operations, vessel traffic will be temporary restricted between Mile Hammock Bay and the Onslow Swing Bridge.

The Coast Guard is establishing a safety zone on specified waters of the Atlantic Intracoastal Waterway between position 34°32'51"N, 077°19'36"W and 34°34'15"N,

077°16'16"W (NAD 1983). This safety zone will be established in the vicinity of Camp Lejeune, NC from 7 a.m. until 11 a.m., and from 12:01 p.m. until 4 p.m. on February 6, 2012, from 7 a.m. until 11 a.m., and from 12:01 p.m. until 4 p.m. on February 7, 2012. In the interest of public safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the Federal Register. Accordingly, the Coast Guard is establishing safety zones on the specified navigable waters of the Atlantic Intracoastal Waterway.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential

costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) the safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because the zone will only be in place for a limited duration, it is limited in size, and maritime advisories will be issued allowing the

mariners to adjust their plans accordingly.

This rule would affect the following entities, some of which might be small entities: the owners and operators of vessels intending to transit or anchor in that portion of the Atlantic Intracoastal Waterway from 7 a.m. to 4:00 p.m. on February 6 and 7, 2012.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order

12630, Governmental Actions and Interference with
Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined

that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishment of a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165 -REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-

6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05-1166 to read as follows:

165.T05-1166 Safety Zone; Atlantic Intracoastal Waterway, Vicinity of Marine Corps Base, Camp Lejeune, NC.

(a) Regulated Area. The following area is a safety zone: specified waters of the Captain of the Port Sector North Carolina zone, as defined in 33 CFR 3.25-20, in the vicinity of the Atlantic Intracoastal Waterway between position 34°32'51"N/077°19'36"W and 34°34'15"N/077°16'16"W (NAD 1983).

(b) Definition: For the purposes of this part, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Sector North Carolina, North Carolina to act on his behalf.

(c) Regulations: (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Sector North Carolina or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Sector North Carolina can be reached through the Sector Duty Officer at Sector North Carolina in Wilmington, North Carolina at telephone Number 910-343-3880.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF-FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 MHz).

(d) Enforcement Period: This regulation will be enforced from 7 a.m. until 11 a.m., and from 12:01 p.m. until 4 p.m. on February 6, 2012; from 7 a.m. until 11 a.m., and from 12:01 p.m. until 4 p.m. on February 7, 2012.

Dated: January 20, 2012

Anthony Popiel
Captain, U.S. Coast Guard
Captain of the Port Sector North Carolina

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